THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 22568 of 2006

Dated: 15.11.2006

Between:

The Depot Manager, A.P.S.R.T.C., Sathupalli Depot, Khammam District.

..... PETITIONER

AND

Sk. Mahaboob Ali, S/o Khader Moinuddin, Driver, R/o Sathupalli, District Khammam and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 22568 of 2006

Order:

Assailing the award dated 25.04.2006 passed by the Labour Court, Warangal, in I.D. No. 199 of 2003, wherein the punishment on respondent No. 1 of deferment of annual increment for a period of two years without cumulative effect, besides treating the period of suspension as not on duty, was set aside, the petitioner-Corporation filed the present writ petition.

Learned Standing Counsel for the petitioner-Corporation mainly contends that the accident had occurred due to rash and negligent driving and lack of anticipation on the part of respondent No.1-workman, and so he is responsible for the alleged accident. He further contends that the Labour Court, without appreciating the evidence on record, erroneously passed the impugned award, hence, the same is liable to be set aside.

Heard the learned Standing Counsel for the petitioner-Corporation, and perused the award of the Labour Court.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are based on suspicion, conjectures or surmises or no reason. The law is well settled that this Court does not act as an appellate authority and reappraise the evidence while exercising certiorari jurisdiction. It is within these parameters, the impugned award of the Labour Court, is to be examined.

A perusal of the award of the Labour Court clearly shows that all the three passengers, who were traveling in the bus at the time of accident, categorically stated before the Senior Traffic Inspector that at the time of accident the bus was going very slow and when the bus came to near heaps the girl suddenly crossed the road from left to right by jumping and met with accident, and that the driver was not at all responsible for the accident. The Conductor also stated before the Senior Traffic Inspector as well as before the domestic enquiry that the driver is not responsible for the accident. That apart, the sketch of the scene of offence prepared by the Senior Traffic Inspector shows that the width of the road is 11.6" and there is not even sufficient place for the driver to go to a side, and in fact when the girl jumped from the heaps the driver applied the breaks and took the bus to the extreme right side margin, but in spite of it the girl came into contact with the left side part of the bus and met with accident. But, ignoring all these facts, the Senior Traffic Inspector, though he was not an eye-witness to the incident, stated before the Enquiry Officer that basing on the statements recorded by him he came to the opinion that the driver was rash and negligent and due to lack of anticipation accident occurred, which is contrary to the statements made by the three passengers and the Conductor. In addition to this, the 1st respondent-workman filed judgment of the criminal court showing that he was acquitted from the criminal case, which was registered on the same charges. The Labour Court, on considering the said circumstances and on re-appreciation of evidence, found that the workman is not responsible for the accident, and that the findings of the Enquiry Officer against the 1st respondent-workman are perverse and not based on any material evidence, and that the action of the petitioner-Corporation in imposing the punishment of deferment of annual increment for a period of two years with cumulative effect, besides treating the period of suspension as not on duty on respondent No.1-workman, was not justified. Holding so, the Labour Court passed

the impugned award setting aside the said punishment imposed on respondent No.1-workman by the petitioner-Corporation, and no exception can be taken thereto.

The award of the Labour Court, judged from the parameters of certiorari jurisdiction of this Court under Article 226 of the Constitution of India, does not call for interference, for the petitioner-Corporation failed to point out any infirmities.

The writ petition is devoid of merit and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 15.11.2006
Nsr/Grk